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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

JERRY SMIT, individually and on behalf of all
others similarly situated,

Plaintiff,

v.

CHARLES SCHWAB & CO., INC., SCHWAB
INVESTMENTS and CHARLES SCHWAB
INVESTMENT MANAGEMENT, INC.,

Defendants.

No. CV-10-3971 LHK

CLASS ACTION

STIPULATION AND ~~PROPOSED~~
ORDER WITHDRAWING MOTION TO
DISMISS COMPLAINT AND SETTING
SCHEDULE FOR MOTION TO
DISMISS FIRST AMENDED
COMPLAINT

Date action filed: Sept. 3, 2010

WHEREAS, on September 3, 2010, Jerry Smit ("Plaintiff") filed a complaint against
Charles Schwab & Co., Inc., Schwab Investments, and Charles Schwab Investment Management,
Inc. ("Defendants");

WHEREAS, on October 6, 2010, the Court related the *Smit* action to *Northstar Financial
Advisors, Inc. v. Schwab Investments*, Case No. 08-cv-4119-LHK;

WHEREAS, pursuant to parties' stipulation in the *Smit* action, the Court adopted the same
briefing and hearing schedule for Defendants' motion to dismiss in this related action as the

1 *Northstar* motion to dismiss (Dkt. No. 22);

2 WHEREAS, under that schedule, Defendants filed their motion to dismiss on November
3 11, 2010, and plaintiff Smit's response was due Monday, December 6, 2010; and

4 WHEREAS, plaintiff Smit filed an amended complaint on Thursday, December 2, 2010,
5 which superseded her original complaint and had the effect of rendering moot Defendants' motion
6 to dismiss;

7 IT IS HEREBY STIPULATED AND AGREED among the undersigned parties, subject to
8 Court approval, that Defendants shall withdraw their motion to dismiss the now-superseded
9 complaint and file a motion to dismiss the Amended Complaint on or before January 5, 2010,
10 Plaintiff's opposition shall be filed on or before February 4, 2011, Defendants' reply shall be filed
11 on or before February 18, 2011, and the hearing on the motion shall be set for March 3, 2011, at
12 1:30 p.m. or as soon thereafter as the matter may be heard.

13 IT IS SO STIPULATED.

14 AGREED and entered into this 6th day of December, 2010

15 HAGENS BERMAN SOBOL SHAPIRO
16 LLP

QUINN EMANUEL URQUHART &
SULLIVAN, LLP

17 /s/ Steve W. Berman
18 Steve Berman

/s/ Richard Schirtzer
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22 Attorneys for Plaintiff Smit and the
23 Proposed Class

Attorneys for defendants Charles Schwab
& Co., Inc., Charles Schwab Investment
Management, Inc., Schwab Investments

24 IT IS SO ORDERED.

25 Dated: December 13, 2010

26 
HONORABLE LUCY H. KOH
27 UNITED STATES DISTRICT JUDGE
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